UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON

UNITED STATES OF AMERICA	:	
	:	
v.	:	**Criminal No.** 1:20CR49
	:	
BRETT DAVID BECKER	:	**Violations: 21 U.S.C. §§ 331(d), 355, and 333(a)(2)**
	:	
and	:	
	:	
ACCELERATED GENETIX, LLC (d/b/a Nutraceutical Innovations, Phenom Nutrition, and Platinum Nutraceuticals)	:	

INFORMATION

INTRODUCTION

The United States Attorney charges that:

1. At all times relevant to this information, Brett David Becker ("Becker") was a Texas resident and United States citizen.

2. Accelerated Genetix, LLC ("Accelerated") is a Texas company incorporated by Becker on or about March 5, 2014, with its principal place of business in Texas. Becker incorporated Accelerated for the purpose of manufacturing and distributing what he called "nutraceuticals" and dietary supplements, including products that contained Selective Androgen Receptor Modulators ("SARMs"), throughout the United States.

3. Becker and Accelerated are collectively referred to as the Defendants.

4. The Food and Drug Administration ("FDA") of the United States Department of Health and Human Services regulates the manufacture and distribution of all food (including dietary supplements) and drugs shipped or received in interstate commerce through enforcement of the Federal Food, Drug, and Cosmetic Act. 21 U.S.C. § 301, *et seq.* ("FDCA"). The

requirements of the FDCA, in part, are meant to ensure that food and drugs sold for human use are safe and bear labeling that contains accurate and adequate information.

5. The FDCA defines a "drug" in relevant part, as (1) any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animal; (2) any article (other than food) intended to affect the structure or any function of the body; or (3) any article used as a component of either. 21 U.S.C. § 321(g). Whether an article is a drug is determined by its intended use, which is defined as "the objective intent of persons legally responsible for the labeling of drugs." The intent is determined by "such person's expressions or may be shown by the circumstances surrounding the distribution of the article." Such intent may be shown by labeling claims, advertising matter, or oral or written statements by such persons or their representatives. 21 C.F.R. § 201.128.

6. A drug is misbranded under the FDCA if its label is false or misleading in any particular, fails to bear adequate direction for use, or fails to bear adequate warnings. 21 U.S.C. § 352(a)(1); 21 U.S.C. § 352(f).

7. Some drugs are "new drugs," which are defined as any drugs the composition of which are not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in their labeling. 21 U.S.C. § 321(p). It is a prohibited act for any person to introduce or deliver for introduction or to cause the introduction or delivery for introduction into interstate commerce any new drug unless it has been the subject of a new drug application approved by FDA. 21 U.S.C. § 331(d), 355(a). Such introduction or delivery for introduction into interstate commerce is a felony violation when it is done with the intent to defraud and mislead. 21 U.S.C. § 333(a)(2). Unlike drugs, dietary

supplements are not subject to the requirement that manufacturers and distributors obtain FDA approval before introducing such products into interstate commerce.

8. SARMs are synthetic chemicals designed to mimic the effects of testosterone and other anabolic steroids. Products containing SARMs that are marketed and distributed for body-building purposes, i.e. to increase muscle mass, are drugs. FDA issued a public safety alert in 2017 warning consumers against ingesting products containing SARMs because these products had been linked to life-threatening reactions, including liver toxicity, and have the potential to increase the risk of heart attack and stroke.

9. On March 5, 2014, Becker established Accelerated Genetix LLC, listing several trade names under the business filing, including Nutraceutical Innovations, Phenom Nutrition and Platinum Nutraceuticals. Becker also manufactured products under the brand name Alchemy Labs Nutrition. During the operation of this business, Becker imported SARMs and other ingredients from China to his business address in Texas; created, bottled, and labeled drug products containing these ingredients; marketed these products to those in the body-building and fitness community to increase muscle mass or otherwise affect the structure or function of the body; and distributed these SARM products in interstate commerce from Texas to places throughout the United States, including in the Western District of Virginia.

10. Beginning on or about January 2016 and continuing to March 2019, Defendants regularly introduced unapproved new drugs into interstate commerce with the intent to mislead and defraud the FDA and consumers by: (1) knowingly misrepresenting products as "dietary supplements" rather than drugs and (2) knowingly failing to obtain regulatory approval for these new drugs.

11. Defendants introduced and delivered for introduction, and caused the introduction or delivery for introduction into interstate commerce, the following new drugs on or about the dates indicated below:

Date	Invoice Number	Product Name	Active Ingredients	Shipped From	Shipped to
March 21, 2018	518	Alchemy Labs Shredded3	3b hydroxy-androst-5-ene-17-one Dehydroandrosterone 5a-androstan-3b-ol-17-one 5a-androstan-3a-ol-17-one Bis-Maltolato-Oxovanadium	Spring, Texas	Western District of Virginia
March 21, 2018	518	Alchemy Labs Tri-AD Mass	3b hydroxy-androst-5-ene-17-one Androst-5-ene-3b-ol-17-one 5a-androstan-3a-ol-17-one Dehydroandrosterone	Spring, Texas	Western District of Virginia
April 4, 2018	10438	PN-SARM GW	{4-((4-methyl-2-(4-(trifluoromethyl)phenyl]-1,3-thiazol-5-yl}methyl)sulfanyl]-2-methylphenoxy}acetic acid	Valrico, Florida	Western District of Virginia
April 4, 2018	10438	PN Quad Mass	Androst-3,5-Dien-7, 17-Dione 5a-Hydroxy-Laxogenin	Valrico, Florida	Western District of Virginia
April 4, 2018	10438	PN GH-PRO	MK-677 (lbutamoren)	Valrico, Florida	Western District of Virginia
July 31, 2018	13784	PN Quad Mass	5a-Hydroxy-Laxogenin; Androst-3, 5-Dien-7, 17-Dione; ((2S)-3-(4-cyanophenoxy)-N-[4-cyano-3-(trifluoromethyl)phenyl]-2-hydroxy-2-methylpropanamide); 4-((R)-2-((R)-2,2,2-Trifluoro-1-hydroxyethyl)pyrrolidin-1-yl)-2-(trifluoromethyl)benzonitrile	Valrico, Florida	Western District of Virginia
July 31, 2018	1822	Innovations Heptdarol	Heptadrol Muscle Matrix; 5a-Androstan-3b-ol-17-one; Androst-5-ene-3b-ol-17-one; Androst-4-ene-17b-ol-3, 11-dione; 5a-Androstan-3a-ol-17-one; Androst-4-ene-3, 11, 17-trione; Androst-5-ene-3b, 7, 17b-triol; 3-AD/Dehydroandrosterol	Valrico, Florida	Western District of Virginia
August 25, 2018	N/A	SARM Maxx	5a-Hxdro-Iaxogenin Epiandrosterone Ostarine	Lewisville, Texas	Western District of Virginia

November 5, 2018	16144	Quad (SARMS) Mass	5a-Hydroxy-Laxogenin; Androst-3, 5-Dien-7, 17-Dione; ((2S)-3-(4-cyanophenoxy)-N-[4-cyano-3-(trifluoromethyl)phenyl]-2-hydroxy-2-methylpropanamide); 4-((R)-2-((R)-2,2,2-Trifluoro-1-hydroxyethyl)pyrrolidin-1-yl)-2-(trifluoromethyl)benzonitrile	Valrico, Florida	Western District of Virginia

12. All of the above products had associated labeling that claimed they affected the structure or function of the body, rendering them drugs under 21 U.S.C. § 321(g)(1). The above products also were new drugs that required FDA approval before they could be lawfully distributed in interstate commerce. These products also failed to bear labeling with adequate directions for use, as is required for new drugs. 21 CFR 201.100.

13. Becker knowingly took steps to mislead and defraud the Government and consumers in the sale of the above products. Becker knew certain ingredients in the above products were subject to scrutiny by government law enforcement agencies, including the FDA and United States Customs, yet he continued to import these ingredients even after learning they were mislabeled by the distributor when they were shipped from China to the United States. Becker further marketed some of the above products as "dietary supplements" to create the false impression they were safe and legal to use.

14. As indicated above, Becker also manufactured custom orders, including for new drugs, despite knowing it was illegal to introduce unapproved new drugs into interstate commerce. For example, in or around August 2018, Becker and Accelerated manufactured "SARM Maxx," a product containing the SARM Ostarine, and shipped the product to an undercover special agent posing as a customer who wanted to purchase products to increase muscle growth. After Accelerated Genetix was sued in connection with its Platinum Nutraceuticals brand products, Accelerated Genetix ceased manufacturing those products but nonetheless continued to manufacture SARM products for customers under their own brand

names, including, but not limited to, the private-label SARM product as requested by the undercover agent.

15. During the period of 2016 to 2019, the Defendants distributed more than $3,531,055 worth of the above drugs.

COUNT ONE

The United States Attorney charges that:

16. The Introduction is re-alleged and incorporated by reference.

17. From on or about January 1, 2016, through on or about March 27, 2019, BRETT BECKER and ACCELERATED GENETIX, with the intent to defraud and mislead, introduced and delivered for introduction into interstate commerce quantities of new drugs, which FDA had not approved for distribution in the United States, from various locations outside the state of Virginia to various locations in the Western District of Virginia and elsewhere.

18. BRETT BECKER used his business entity, ACCELERATED GENETIX, to cause the interstate distribution of unapproved new drugs throughout the United States and elsewhere.

19. All in violation of 21 U.S.C. §§ 331(d), 355, and 333(a)(2).

NOTICE OF FORFEITURE

20. Upon conviction of the offense alleged in this Information, BRETT BECKER and ACCELERATED GENETIX, shall forfeit to the United States unapproved new drugs, pursuant to 21 U.S.C. § 334 and 28 U.S.C. § 2461, that were shipped to various locations in the Western District of Virginia and elsewhere.

21. Because the above-described forfeitable property has been transferred and sold to third parties and cannot be located upon the exercise of due diligence, the United States intends to seek forfeiture of $3,531,055 pursuant to 21 U.S.C. § 853(p).

DATED: December 18, 2020

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